

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

STRATEGIC BUSINESS PARTNERS, LLC, an Illinois limited liability company, and 1<sup>st</sup> TIER PROFITABILITY GROUP, LLC, an Illinois limited liability company,

Plaintiffs,

-VS-

THOMAS C. SOURAN,

Defendant.

**Case No. 1:08-cv-03515**

## Judge Virginia Kendall

**Magistrate Judge Maria Valdez**

**EMERGENCY MOTION TO REMOVE PORTION OF PDF IMAGE ATTACHED  
TO ANSWER AND TO REQUIRE PARTIES TO REFRAIN FROM FILING CERTAIN  
DOCUMENT OTHER THAN UNDER SEAL**

Plaintiff/Counterdefendant 1<sup>st</sup> Tier Profitability Group, LLC (hereinafter “1<sup>st</sup> Tier”), by and through its attorneys, requests that the Court remove the portion of the PDF Image attached at pages 38 through 40 of Defendant/Counterplaintiff/Crossplaintiff Thomas C. Souran’s 46-page Answer, Affirmative Defenses, Counterclaim and Crossclaim (the “Answer”) that sets forth the Agreement between Souran and 1<sup>st</sup> Tier dated August 17, 2007, and require the Parties to refrain from filing any portion of the Agreement other than under seal. In support of its Motion, 1<sup>st</sup> Tier states as follows:

1. On June 19, 2008, Plaintiffs filed their Complaint in the above-captioned action. In the text of their Complaint, Plaintiffs referred to an August 2007 Agreement between 1<sup>st</sup> Tier and Defendant (the “Agreement”) and indicated that Plaintiffs would be seeking leave from the Court to file the Agreement as an Exhibit under seal.

2. On June 20, 2008, Plaintiffs filed their Motion to File Exhibit to Complaint Under Seal (the “Motion to Seal”), which was set for hearing before this Court on June 26, 2008. The

Motion to Seal was served on Souran by personal delivery. Both Souran and Counsel for Plaintiffs appeared in Court on June 26, 2008 for the hearing. On Souran's request, the Court held the Motion to Seal over until July 17, 2008 at 9 a.m. in order that Souran have the opportunity to consult with and retain counsel. Also at Souran's request, the Court set July 17, 2008 as the deadline for him to file his answer or other responsive pleading.

3. On July 17, 2008, Counsel for Plaintiffs appeared for the hearing on the Motion to Seal. Souran did not appear to contest the Motion to Seal, filed no opposition to the Motion to Seal and, to Plaintiffs' knowledge, made no attempt to participate in the hearing by telephone or otherwise. At this hearing, the Court granted Plaintiffs' Motion to Seal. Early on July 21, 2008, prior to Souran's filing the Answer, Counsel for Plaintiffs informed him of the Court's ruling.

4. On July 22, 2008, Souran filed the Answer. Attached to the Answer are 30 pages of assorted documents. These documents include letters exchanged between Souran and Counsel for Plaintiffs, the First Amended Complaint in an unrelated suit, emails, website printouts, excerpts from this Court's Local Rules, and the first 3 pages of the Agreement. While the attachments to the Answer are not specifically numbered or identified as exhibits, the portion of the Agreement is set forth at pages 38 through 40 of the entire 46-page document.

5. Among other provisions, the Agreement contains a provision requiring that if Souran asserts a claim for breach of the Agreement (which he does in Count (a) of his Counterclaim) Souran and 1<sup>st</sup> Tier are required to maintain the confidentiality of the Agreement by whatever means necessary, including, but not limited to, submitting the Agreement to a court under confidential seal.

6. While Souran did not file the Answer and its attachments electronically, the Court has scanned the Answer and attachments and uploaded them to the Court's system, making the

attachments – including the Agreement – accessible to the general public, contrary to this Court’s July 17, 2008 Order.

7. 1<sup>st</sup> Tier files this Emergency Motion because the Agreement, which by its terms was intended to be kept confidential, is publicly filed. A delay in hearing this Motion could cause harm to the interests of the parties to the Agreement since it is now available for public viewing, contrary to the relief sought in Plaintiff’s Motion to Seal, which relief was granted by this Court on July 17, 2008.

WHEREFORE, Plaintiff/Counterdefendant 1<sup>st</sup> Tier Profitability Group, LLC respectfully requests that this Court enter an Order (1) instructing the Clerk of Court to remove the pages setting forth portions of the Agreement from the PDF Image attached to the Answer; (2) requiring all parties to refrain from filing any portion of the Agreement other than under seal; and (3) providing such other relief as the Court deems just and proper.

Dated: July 28, 2008

Respectfully submitted,

By: /s/ Nora Kersten Walsh

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Attorneys for Plaintiffs

**CERTIFICATE OF SERVICE**

The undersigned, an attorney, hereby certifies that she caused a copy of the foregoing Emergency Motion To Remove Portion of PDF Image Attached To Answer And To Require Parties To Refrain From Filing Certain Document Other Than Under Seal to be served upon Defendant Thomas C. Souran via e-mail and regular mail on July 28, 2008.

Thomas C. Souran  
Pro Se  
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Dallas, TX 75254

/s/ Nora Kersten Walsh  
Nora Kersten Walsh